IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.2003 OF 2007.

(Trimbak Mahadling Goregaonkar vs. State of Mah. & oth.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Shri A.S. Giradkar, Advocate for Petitioner.
Shri A.S.Fulzele, A.G.P. for Respondents No.1 & 2,
Shri R.E.Moharir, Advocate for Respondent No.3.

CORAM : A.H.JOSHI AND
R.C.CHAVAN, JJ.

DATED : AUGUST 13, 2007.

1. Heard learned Advocate Shri Giradkar for the petitioner, learned A.G.P. Shri Fulzele for respondents No.1 and 2 and learned Advocate Shri R.E.Moharir for respondent No.3.

2. Petitioner has relied on the claim and for that purpose placed reliance on the following documents :

(a) Genealogical tree certified by Police Patil;

(b) contents of sale deed dated 29.01.1947 executed between Gangadhar Nagaiyya Malajangam and Dhondaiyya Siddheramaiyya Malajangam relating to open plot;

(c) entry relating to school record;

He has also placed reliance on the genealogical tree narrated by him in the reply to show cause notice before the Scrutiny Committee.

3. The decision of Scrutiny Committee is challenged on the ground that the evidence on record has not been considered.

4. We find that these documents have been dealt with and discussed by the Committee. The Committee found that in the school record pertaining to Gajanan Mahadling Goregaonkar, elder brother of the petitioner, at Central Marathi Primary School caste of petitioner's brother is noted as “Mala”. Thereafter there has been addition by different ink. In so far as sale deed of 1947 is concerned, original was ordered to be produced and it was found that original stamp paper does not contain narration about issue of stamp etc. The learned Advocate wanted us to peruse the photo coy of the said document on stamp paper which is written in *Devnagari* and we too find that it does not contain any endorsement regarding issuance of the stamp paper. The Scrutiny Committee has recorded its findings that the petitioner even failed to bring further evidence and detailed particulars of the genealogical tree of his family. The Committee found that the evidence relied upon by the petitioner was not sufficient to prove his caste claim.

5. We see that giving names of brothers, father and grand father as a list of three generations is too scant to be described as pedigree or genealogical tree. Finding of fact by the Committee is not shown to be vitiated due to failure to consider the record or being contrary to evidence on record.

6. We find that under Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 the burden to prove the caste claimed by the candidate, on the basis of which he sought certificate which is under scrutiny, lies upon him. On facts, it is seen that the burden is not discharged by the petitioner.

7. The decision of the Scrutiny Committee is, therefore, not liable to be regarded as illegal or vitiated.

8. In the circumstances, we find that there are no grounds to interfere, the writ petition is, therefore,dismissed.

JUDGE. **JUDGE.**

RR.